

**Executive Summary – Enforcement Matter – Case No. 43521**  
**Trinity River Authority of Texas**  
**RN106317308**  
**Docket No. 2012-0422-WQ-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

WQ

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Walker-Calloway Branch Outfall Trunk Sewer, located near the 1,000 block of Henson Road, Hurst, Tarrant County

**Type of Operation:**

Collection system with an outfall trunk sewer

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 15, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$5,625

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$5,625

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

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***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** December 8, 2011  
**Date(s) of NOE(s):** January 20, 2012

***Violation Information***

Failed to prevent the unauthorized discharge of untreated wastewater from the collection system [TEX. WATER CODE § 26.121(a)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent:

- a. By December 8, 2011, stopped the unauthorized discharge, contained the unauthorized discharge with two berms, hired environmental consultants to assist in remediation, and installed a bypass pump to pump the discharged wastewater into the collection system;
- b. By December 10, 2012, installed a replacement pipe and flushed all water downstream to a wastewater manhole; and
- c. By December 13, 2012, restored the property back to its original condition with erosion control modifications, conducted pretreatment sampling and testing to ensure that dissolved oxygen, ammonia nitrogen, and pH parameters were within limits.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Jennifer Graves, Enforcement Division,  
Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A

**Executive Summary – Enforcement Matter – Case No. 43521**  
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**Docket No. 2012-0422-WQ-E**

**Respondent:** Fiona M. Allen, Northern Regional Manager, Trinity River Authority of Texas, P.O. Box 240, Arlington, Texas 76004

Patricia Cleveland, Assistant Regional Manager, Trinity River Authority of Texas, P.O. Box 240, Arlington, Texas 76004

**Respondent's Attorney:** N/A



<b>DATES</b>	<b>Assigned</b>	23-Jan-2012	<b>Screening</b>	1-Feb-2012	<b>EPA Due</b>	
	<b>PCW</b>	1-Feb-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Trinity River Authority of Texas
<b>Reg. Ent. Ref. No.</b>	RN106317308
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>	
<b>Enf./Case ID No.</b>	43521
<b>Docket No.</b>	2012-0422-WQ-E
<b>Media Program(s)</b>	Water Quality
<b>Multi-Media</b>	
<b>No. of Violations</b>	1
<b>Order Type</b>	Findings
<b>Government/Non-Profit</b>	Yes
<b>Enf. Coordinator</b>	Jennifer Graves
<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0
<b>Maximum</b>	\$25,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> \$7,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
<b>Compliance History</b>	<b>0.0%</b> Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$0
Notes	No adjustment for compliance history.
<b>Culpability</b>	<b>0.0%</b> Enhancement <b>Subtotal 4</b> \$0
Notes	The Respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b> \$1,875
<b>Economic Benefit</b>	<b>0.0%</b> Enhancement* <b>Subtotal 6</b> \$0
<div style="display: flex; justify-content: space-between;"> <div> <small>Total EB Amounts</small> \$40  <small>Approx. Cost of Compliance</small> \$147,873 </div> <div><small>*Capped at the Total EB \$ Amount</small></div> </div>	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> \$5,625
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> <b>Adjustment</b> \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
Notes	
	<b>Final Penalty Amount</b> \$5,625
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> \$5,625
<b>DEFERRAL</b>	<b>0.0%</b> Reduction <b>Adjustment</b> \$0
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
Notes	No deferral is recommended for Findings Orders.
<b>PAYABLE PENALTY</b>	<b>\$5,625</b>

Screening Date 1-Feb-2012

Docket No. 2012-0422-WQ-E

PCW

Respondent Trinity River Authority of Texas

Policy Revision 3 (September 2011)

Case ID No. 43521

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106317308

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 1-Feb-2012

Docket No. 2012-0422-WQ-E

PCW

Respondent Trinity River Authority of Texas

Policy Revision 3 (September 2011)

Case ID No. 43521

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106317308

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent the unauthorized discharge of untreated wastewater from the collection system. Specifically, on December 8, 2011, approximately 351,000 gallons of untreated wastewater was discharged from a damaged 27-inch interceptor into Walker Branch Creek resulting in a fish kill of 32 fish.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	x
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One daily event is recommended from the date the unauthorized discharge began (December 8, 2011) to the date the unauthorized discharge was stopped and contained (December 8, 2011).

## Good Faith Efforts to Comply

25.0% Reduction

\$1,875

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance by December 13, 2011.

Violation Subtotal \$5,625

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$40

Violation Final Penalty Total \$5,625

This violation Final Assessed Penalty (adjusted for limits) \$5,625

# Economic Benefit Worksheet

**Respondent** Trinity River Authority of Texas  
**Case ID No.** 43521  
**Reg. Ent. Reference No.** RN106317308  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$55,275	8-Dec-2011	8-Dec-2011	0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$57,012	8-Dec-2011	10-Dec-2011	0.01	\$16	n/a	\$16
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$35,586	8-Dec-2011	13-Dec-2011	0.01	\$24	n/a	\$24

### Notes for DELAYED costs

Actual cost to stop the unauthorized discharge, contain the unauthorized discharge with two berms, hire environmental consultants to assist in remediation, and install a bypass pump to pump the discharged wastewater into the collection system (\$55,275). Date required is the date the unauthorized discharge began. Final date is the date the specific corrective actions were completed. Actual cost to install a replacement pipe and flushed all water downstream to a wastewater manhole (\$57,012). Date required is the date the unauthorized discharge began. Final date is the date the specific corrective actions were completed. Actual cost to restore the property back to its original condition with erosion control modifications, conduct pretreatment sampling and testing to ensure that dissolved oxygen, ammonia nitrogen, and pH parameters are within limits (\$35,586). Date required is the date the unauthorized discharge began. Final date is the date the specific corrective actions were completed.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance	\$147,873	<b>TOTAL</b>	\$40
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# Compliance History Report

Customer/Respondent/Owner-Operator: CN601265945 Trinity River Authority Of Texas Classification: AVERAGE Rating: 2.28  
Regulated Entity: RN106317308 WALKER-CALLOWAY Classification: Site Rating:  
INTERCEPTORS

ID Number(s): WATER QUALITY NON PERMITTED ID NUMBER R04106317308

Location: WALKER-CALLOWAY BRANCH OUTFALL TRUNK  
SEWER, LOCATED NEAR THE 1,000 BLOCK OF HENSON RD, HURST, TARRANT CO, TX

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: January 23, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 23, 2007 to January 23, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jennifer Graves Phone: (956) 430-6023

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 01/20/2012 (980966)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TRINITY RIVER AUTHORITY OF  
TEXAS  
RN106317308**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-0422-WQ-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Trinity River Authority of Texas ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns a collection system with an outfall trunk sewer located near the 1,000 block of Henson Road in Hurst, Tarrant County, Texas (the "Site").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on December 8, 2011, TCEQ staff documented that approximately 351,000 gallons of untreated wastewater was discharged from a damaged 27-inch interceptor into Walker Branch Creek resulting in a fish kill of 32 fish.
4. The Respondent received notice of the violation on January 23, 2012.
5. The Executive Director recognizes that the Respondent:
  - a. By December 8, 2011, stopped the unauthorized discharge, contained the unauthorized discharge with two berms, hired environmental consultants to assist in remediation, and installed a bypass pump to pump the discharged wastewater into the collection system;
  - b. By December 10, 2012, installed a replacement pipe and flushed all water downstream to a wastewater manhole; and
  - c. By December 13, 2012, restored the property back to its original condition with erosion control modifications, conducted pretreatment sampling and testing to ensure that dissolved oxygen, ammonia nitrogen, and pH parameters were within limits.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of untreated wastewater from the collection system, in violation of TEX. WATER CODE § 26.121(a)(1).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Five Thousand Six Hundred Twenty-Five Dollars (\$5,625) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Five Thousand Six Hundred Twenty-Five Dollar (\$5,625) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Five Thousand Six Hundred Twenty-Five Dollars (\$5,625) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Trinity River Authority of Texas, Docket No. 2012-0422-WQ-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona Janin Jr.  
For the Executive Director

7/6/12

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Trinity River Authority of Texas. I am authorized to agree to the attached Agreed Order on behalf of Trinity River Authority of Texas, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Trinity River Authority of Texas waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Fiona M Allen

Signature

4/16/12

Date

FIONA M ALLEN

Name (Printed or typed)  
Authorized Representative of  
Trinity River Authority of Texas

NORTHERN REGION MGR

Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.